



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
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CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 2306350
Applicant Name: Gary M. Abrahams of T-Mobile
Address of Proposal: 4500 ML King Jr. Way South

SUMMARY OF PROPOSED ACTION

A Master Use Permit to establish use for future installation of a minor communication utility (T-Mobile), consisting of 3 panel antennas mounted atop a Seattle City Light utility pole (maximum height 63 feet above grade) within the South Oregon Street right-of-way. The project also includes installation of accessory electrical equipment cabinets located within a storage shed partially located on private property and in the right-of-way (4500 ML King Jr. Way South).

The following approvals are required:

Siting Recommendation to Superintendent of Seattle City Light - Chapter 15.32.300, Seattle Municipal Code

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code

SEPA DETERMINATION: ☐ EXEMPT ☐ DNS ☐ MDNS ☐ EIS
 ☒ DNS with conditions
 ☐ DNS involving non-exempt grading or demolition
 involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Description

The development site includes private property and a portion of the public right-of-way. The subject site (hereupon refers to the private property where the accessory equipment cabinets will be located), is approximately 270 feet east of the southeast corner of Martin Luther King Jr. Way South and Tamarack Drive South, and approximately 50 feet south of the north property line. The (private property) subject site is owned by the Seattle Housing Authority (SHA) and is proposed for redevelopment within the next 18-24 months. The site vegetation includes grass, shrubs and several large trees.

The subject site is irregular in shape and comprises a lot area of approximately 43,543 square feet and is also split zoned. The site is comprised of Neighborhood Commercial 1-40 (NC1-40), Lowrise 4 Residential Commercial (L-4 R/C), Lowrise 4 (L-4), and Lowrise 2 (L-2) zones. The proposed location for the mechanical equipment is in the north end of the site, which is designated as L-4 R/C. The accessory equipment cabinets will be located in an existing storage shed adjacent to a surface parking lot. Approximately 7'-5" south of the shed will be the location for a City Light utility pole where three (3) panel antennas will be installed. The existing site contains approximately 19 structures. Structures in the immediate vicinity include an administrative office building to the west, and two social service buildings to the east. Beyond those are several duplex structures.

Due to a recently approved and recorded full subdivision (#2000638) for the redevelopment of Rainier Vista, the City Light pole will be located in the newly dedicated right-of-way known as South Oregon Street. The accessory equipment cabinet will also be located in this right-of-way within the existing shed.

Proposal Description

The applicant proposes to install a total of 3 (three) panel antennas mounted at a height not to exceed 63 feet above grade on a City of Seattle City Light utility pole. The proposal consists of 3 (three) sectors, containing 1 (one) antenna per sector for a total of 3 (three) antennas. This height is deemed by the applicant to be the minimum necessary to provide service coverage to the area. The project also includes installation of accessory electrical equipment cabinets located within a storage shed partially located on private property and in the right-of-way (4500 ML King Jr. Way South).

Public Comment

The public comment period for the project began on October 23, 2003 and ended on November 5, 2003 with no comments received from the public.

ANALYSIS - SITING RECOMMENDATION TO SUPERINTENDENT OF SEATTLE CITY LIGHT

The Street and Sidewalk Use Chapter of the Seattle Municipal Code allows Class II Special Attachments (minor communication utilities) to be placed on utility poles owned by Seattle City Light that are located on public rights of way. Class II Special Attachments are specifically regulated by

SMC Section 15.32.300. This Section allows for minor communication utilities, or other Class II Special Attachments, to extend above the electrical facilities (wires) on top of an existing pole, or the replacement of an existing pole to achieve adequate height for the applicant's purposes. Section 15.32.300 further requires that all costs of such replacements be borne by the communications provider, and that the visual impacts of minor communication utilities and other Class II Special Attachments shall be reduced to a degree acceptable to the Superintendent of City Light.

Where a request for Class II attachment is made, and the proposed location is in a street with the utility pole exceeding 60 feet (above grade), located within a Lowrise-4 R/C Zone, the applicant shall apply to DPD and pay for an attachment siting review and recommendation consistent with the application, fee, notice, timeline and criteria for an Administrative Conditional Use (ACU) permit. The DPD recommendation shall be advisory to the Superintendent of City Light. The specific ACU criteria can be found in SMC Section 23.57.010, subsection C2. The criteria, which must be satisfied in order for the proposal to receive a positive recommendation from DPD, are as follows:

- a. The proposal shall not be significantly detrimental to the residential character of the surrounding residentially zoned area, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The proposal includes a wood utility pole with three panel antennas to be located in the South Oregon Street right-of-way and associated electrical equipment cabinets to be located within an existing accessory storage shed nearby on both private property and public right-of-way (South Oregon Street). The area is zoned Lowrise-4 Residential/Commercial (multifamily). The height of the utility pole, including the antennas, would be 63 ft. above grade and is proposed in the newly dedicated South Oregon Street, where additional City Light poles will be located in conjunction with future street improvements. Existing City Light poles in the vicinity are approximately 40 ft. in height above grade.

The antennas would be placed atop the pole between the heights of 57'-63' above grade. All conduits (cables) would be attached against the exterior of the wood pole and painted to match. The associated equipment cabinets will be screened within an existing storage shed structure to minimize ambient noise and visual impacts on adjacent properties. The ground equipment has minimal noise impacts and is covered in the noise report. Traffic will not be impacted in any way by this project as the project is an unmanned facility. In addition, no dwelling units will be displaced by the proposed project.

The location for the proposed project is in Rainier Vista, which has recently received permits for the redevelopment of the immediate vicinity. Currently, the Seattle Housing Authority is constructing the first phase of the Rainier Vista redevelopment on the west side of Martin Luther King Jr. Way S. The existing subject site is proposed for redevelopment within the next 18-24

months. During the redevelopment of the subject site, the proposed City Light pole will be replaced, and the antennas (including the accessory equipment) will be relocated to another location subject to DPD approval.

In addition, the existing structures in the vicinity are not residential, but rather administrative offices for SHA. The proposed pole will be located in what appears to be a surface parking lot for the SHA office buildings.

The underlying zoning is L-4 R/C, which allows commercial development and is considered to be a moderately intensive zone. Also, this zone is near the top of the hierarchy in terms of preferred location. The following is the preferred hierarchy of zones for siting antenna attachments: 1) Industrial and Commercial; 2) Multifamily; 3) Single Family along arterials, and 4) Single Family along non-arterials. The proposed location does not abut a Single Family zoned property.

The height and location of the pole is considered to be the minimum necessary while still providing coverage to the area.

With all of this in mind, the above location is in the least intrusive location while still providing service coverage to the area.

b. The visual impacts that are addressed in Section 23.57.016 shall be mitigated to the greatest extent practicable.

The only provision contained with SMC Section 23.57.016 that applies to the proposal is subsection J. However, even that subsection applies to freestanding transmission towers. Technically, utility poles are not freestanding transmission towers. However, the similarities of the two warrant consideration of subsection J, which reads as follows:

Freestanding transmission towers shall minimize external projections from the support structure to reduce visual impacts and to the extent feasible shall integrate antennas in a screening structure with the same dimensions as external dimensions of the support structure, or shall mount antennas with as little projection from the structure as feasible. External conduits, climbing structures, fittings, and other projections from the external face of the support structure shall be minimized to the extent feasible.

The applicant has attempted to demonstrate compliance with Section 23.57.016 by proposing the installation of a wood pole. The wood pole will have a conduit attached to the exterior which will be painted to match the color of the pole. While this design attempts to integrate the antenna with the wood pole, it is not clear that this design accomplishes this to the fullest extent feasible. However, due to the extreme transitional nature of this neighborhood (total demolition and reconstruction in a new alignment of all structures and roadways) over the next few years, there does not appear to be a more practical way to mitigate the visual impacts of this proposal.

- c. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:**
- i. the antenna is at least one hundred feet (100') from a MIO boundary; and**
 - ii. the antenna is substantially screened from the surrounding neighborhood's view.**

The proposed site is not located within a Major Institution Overlay; therefore, this provision is not applicable.

- d. If the minor communication utility is proposed to exceed the permitted height of the zone, the applicant shall demonstrate the following: (i) The requested height is the minimum necessary for the effective functioning of the minor communication utility, and (ii) Construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.**

The proposed antennas will be on and mounted to a wood utility pole. The proposed minor communication facility would no higher than 63 feet above grade, but exceeds the 37 foot height limit of the Lowrise-4 R/C zone. The requested height accommodates minimum height and clearance requirements from Seattle City Lights construction standard.

Located in the project file is a map which shows the search ring associated with this site, with an arrow marking the location of the pole at 4500 Martin Luther King Jr. Way S. According to the memo dated September 18, 2003, a search ring is issued by a Radio Frequency (RF) Engineer with the directive that an antenna site must be found within that ring in order to satisfy the coverage objectives. For a wireless system to work, sites must hand-off to each other to create a seamless network. An antenna site cannot be too close to the next site, otherwise interference will occur between sites. Also, the existing storage shed will provide adequate screening for the accessory mechanical equipment. With all of this in mind, the applicant chose the subject site.

The coverage objective of the proposed site extends west from the subject site along South Columbian Way towards Beacon Avenue South, and north and south along Martin Luther King Jr. Way South. According to the applicant, the height of the antennas must be tall enough for the signal coverage to extend over the hill of South Columbian Way as it heads west.

The applicant provided information which states that the antennas cannot move further south without creating interference with the existing T-Mobile facility at 4873 Rainier Avenue South. Also, moving the antennas further north would not satisfy the coverage objective. The antennas could be placed atop a pole along Martin Luther King Jr. Way South, which is located in a NC1-40 zone. However, given the fact that the proposed site will be a "temporary" one during reconstruction of the neighborhood (18-24

months), it is deemed to be less intrusive than permanently locating a site along Martin Luther King Jr. Way South.

The literal interpretation and strict application of the Land Use Code would be that T-Mobile could not meet its federal mandate of its FCC license to provide high speed wireless internet access throughout the Seattle metropolitan area. This proposal site, at this elevation is a vital link in the planned network for the Seattle Metropolitan area. Given these alternatives, the height limit extension is a minimal impact and the least intrusive. Thus, this criterion is satisfied.

- e. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The subject proposal is not a new freestanding transmission tower and there are no nearby freestanding transmission towers that would allow for collocation of T-Mobile's antennas. The existing buildings are too small to locate on rooftop antennas. Similar to the previous Criterion D, the antennas must be located above the existing trees and topography. Existing buildings nearby that are within the "search area" are too small to achieve that goal.

SITING RECOMMENDATION TO SUPERINTENDENT OF SEATTLE CITY LIGHT

Based on the above analysis, the Director of the Planning and Development recommends to the Superintendent of Seattle City Light to **GRANT** the application to install a minor communication utility on Seattle City Light pole in the public right-of-way in a residential zone, subject to conditions requiring painting portions of the facility to minimize visual impact. The recommended conditions are enumerated at the end of this report.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by the applicant on September 16, 2003, and supplemental information in the project file submitted by the applicant. The information in the checklist, supplemental information, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,*" subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D), mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) conflict with normal pedestrian movement adjacent to the site; and 5) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

Construction Noise

The limitations of the Noise Ordinance (construction noise) are considered adequate to mitigate the potential noise impacts associated with construction activities. No additional mitigation is warranted.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radio frequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore, pose no threat to public health. Warning signs at every point of access to the transmitting antenna shall be posted with information of the existence of radiofrequency radiation.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

RECOMMENDED CONDITIONS TO SUPERINTENDENT OF SEATTLE CITY LIGHT

1. The owner(s) and/or responsible party(s) shall provide ensure that the antennas and support structures are painted to blend with the color (non-glare) of the City Light pole.

Land Use Code Requirement (Non Appealable) Prior to Issuance of Master Use Permit

2. The owner(s) and/or responsible party(s) shall update the official MUP plan set to provide access and signage in accord with Section 23.57.010E4 which restrict access to minor communications utilities to authorized personnel. This shall be to the satisfaction of the Land Use Planner.
3. The applicant shall revise the MUP drawings to include a street light attachment to the City Light pole per City Light standards.

CONDITION - SEPA

None.

Signature: _____ (signature on file) Date: June 3, 2004
Bryan Stevens, Land Use Planner
Department of Planning and Development

Land Use Services

BS:bg

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